

Federal Court



Cour fédérale

Date: 20101014

Docket: IMM-1107-10

Citation: 2010 FC 1012

Ottawa, Ontario, October 14, 2010

PRESENT: THE CHIEF JUSTICE

BETWEEN:

**JANET BERENICE TREJO AMADOR,
ALDO DANIEL TREJO AMADOR**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] The applicants, a mother and her young son who are both citizens of Mexico, seek judicial review of the determination by the Refugee Protection Division rejecting their refugee claim based on spousal abuse.

[2] The member accepted the mother's subjective fear of persecution as the result of her three-year relationship with an abusive common-law spouse.

[3] The applicants' counsel ably relied on 2009 country evidence to question the availability of state protection in Mexico for the victims of spousal abuse. For example, the 2009 report of *Human Rights Watch* stated: "Law enforcement officials often neglect to investigate and prosecute those responsible for human rights violations, including ... sexual and domestic violence against women and girls."

[4] However, counsel's efforts before the refugee tribunal and in this Court were compromised by his clients' failure to seek state protection until some two days prior to their departure for Canada.

[5] The member considered and rejected the mother's explanation for not complaining to the proper authorities at an earlier date – her being held as a virtual prisoner by her abusive partner, her fear of his reaction and her concern on account of his connections with the police. While the member's reasons could have expressed greater sensitivity to the realities of partner violence, I am satisfied that it is not for this Court to re-weigh these explanations.

[6] Similarly, the applicants failed to establish any reviewable error in the member's analysis of an internal flight alternative.

[7] There is little, if any, information in the mother's personal information form to indicate that separate facts were being alleged concerning the claim of her young son for whom she acted as designated representative. In these circumstances where the minor applicant does not raise a

separate claim, it is not a reviewable error for the member not to have considered his specific interests: *Nam v. Canada (Minister of Citizenship and Immigration)*, 2010 FC 783 at paragraphs 26- 28.

[8] In summary, I have not been satisfied that the applicants established that the member's rejection of the mother's spousal abuse claim was unreasonable. Accordingly, this application for judicial review will be dismissed. The Court agrees with the parties that this proceeding presents no serious question for certification.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that:

1. This application for judicial review is dismissed; and
2. No serious question of general importance is certified.

“Allan Lutfy”

Chief Justice

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1107-10

STYLE OF CAUSE: JANET BERENICE TREJO AMADOR ET AL v.
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: September 15, 2010

**REASONS FOR ORDER
AND ORDER:** LUTFY, C.J.

DATED: October 14, 2010

APPEARANCES:

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Neal Samson FOR THE RESPONDENT

SOLICITORS OF RECORD:

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